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National Highway Traffic Safety Administration  
Docket Management  
Room PL-401  
400 Seventh Street, S.W.  
Washington, DC 20590

RECEIVED NHTSA

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NHTSA-01-8677-28

**Re: Docket No. NHTSA 2001-8677; Notice 1;  
Advance Notice of Proposed Rulemaking, Early Warning Reporting**

Dear Sir or Madam:

This comment is submitted in response to the above-captioned advance notice of proposed rulemaking (ANPRM) on behalf of Pilkington North America, Inc. ("PNA"). PNA makes raw float glass in four plants for use in automotive and building applications as well as specialized technical applications. In the automotive area, PNA supplies original equipment manufacturers with glass parts and fabricates and distributes automotive replacement glass.

**1. Rule Application Should Be Limited To Motor Vehicle Manufactures and a Limited Subset of Equipment Manufacturers.**

In the ANPRM, NHTSA acknowledges that a defect is far more likely to come to the direct attention of the vehicle manufacturer than the assembler of the component, or the manufacturers of the component's individual parts. Therefore, imposing the reporting requirements on the broad categories of component manufacturers as discussed in the ANPRM would not add significant incremental value to the database, as most of the data reported by component manufacturers would merely be derived from data collected by upper-tier suppliers and the vehicle manufacturer. The value of a one-off report of a defect or injury (and the

likelihood of an often unidentified component manufacturer being notified to the exclusion of the vehicle manufacturer) must be compared to the potential compliance burden. Furthermore, NHTSA recognizes that some 14,000 parts and components are produced not only by direct original equipment (Tier 1) suppliers but also by several additional levels of manufacturers are involved in the production of a passenger car. These numbers mushroom even more when replacement or aftermarket parts and their producers are factored into the motor vehicle equipment supply chain. If the early warning reporting rule is not sharply focused and properly managed, the burdens to collect and review industry data will assuredly overwhelm all concerned, defeating the intent of TREAD Act. Moreover, given the interplay of the parts and components and given that these components are manufactured in accordance with the vehicle manufacturer's specifications, it is often the case that the vehicle manufacturer is the only party that can ascertain the root cause of injury-causing accidents.

PNA supports an approach that would limit the reporting requirements to the motor vehicle manufactures and those certain motor vehicle equipment manufacturers that regularly receive data not available to the motor vehicle manufactures. PNA believes that this category would be limited to equipment manufacturers that produce equipment that is employed by multiple vehicle manufacturers without undergoing specialized engineering. (e.g. tires, child-seats).

As NHTSA correctly points out that, "There is a growing trend to packaging individual parts into a single unit or module." PNA suggest that if NHTSA considers itself compelled to start somewhere with equipment reporting, the agency should limit its application to original equipment manufacturer-suppliers and importers of "systems" or "modular" components.

Also, PNA notes that ANPRM acknowledges that a majority of safety recalls have been concentrated among a few parts/components. PNA submits that manufactures of components that have not had a history of safety-related defects, such a safety glass, should be excluded from the reporting requirements.

**2. In Order to Achieve TREAD's Early Warning Objectives, Reporting Requirements Should be Limited Number of Streamlined Data Categories. Furthermore, Reporting Requirements Should Not Required Manufacturers To Collect Data Not Currently Being Collected.**

PNA is concerned by the scope of information and data that the agency has addressed in the ANPRM. We believe that in order for the data collection to have the intended effect, it must be limited to streamlined categories that can be easily centralized by a global organization. PNA is the United States subsidiary of the Pilkington group, which has operations in 22 countries.

Given the goals of the TREAD Act, and the need to effectuate it the least burdensome manner, the following considerations are offered:

- (a) "claims" of death or serious injury: reporting should be required for foreign or U.S. incidents where the equipment manufacturer subject to the rule receives actual notice of a death or serious injury through either its legal counsel or insurance/claims department, if applicable, and the claim specifically alleges the injury or death to have been caused by a defect in the manufacturer's product. A sufficient interval between the notice and the reporting date is also recommended to permit confirming factual development and internal review. Furthermore, it is suggested that a reporting threshold of a more than nominal number of claims

relating to the same alleged defect within a calendar year be implemented to compensate for the likelihood that the publicity surrounding the Act will encourage claims that fit within its purview.

(b) warranty claims: PNA does not typically have access to warranty data on products which it supplies to vehicle producers; warranty information is received and maintained by the vehicle manufacturer(s) involved.

(c) property damage: PNA does not in the normal course maintain records relating to property damage. Furthermore, as automotive safety glass is, by its very nature, a component subject to breakage under normal operating conditions, exceptions should be made for glass breakage claims.

(d) internal investigations: PNA is strongly opposed to NHTSA's suggestion that it become involved in the internal investigation process. As a preliminary matter, this requirement would have a chilling effect on PNA's desire to undertake, or conduct in depth, such reviews, thereby having the perverse effect of having the root-cause of product defects less likely to be discovered.

If the agency incorporates an "internal investigation" component in its rule, it can reasonably anticipate that an increasing number of these reviews will be conducted under an asserted attorney-client privilege shield.

(e) component changes: PNA does not believe that part changes are a relevant indicator. Product changes occur for a wide range of reasons and it would be impossible to infer the rationale for such a change. Furthermore, it is unlikely a safety-related change would occur in the absence of data otherwise reportable under TREAD or other NHTSA rules.

(f) field reports: PNA has no data processing systems to begin even to consider collecting and managing “field” information for NHTSA’s early warning safety purposes, and attempting to implement a worldwide system for gathering and analyzing anecdotal information coming from the marketplace for arguably safety-relevant data would present very substantial cost burdens and likely require additional support personnel.

Finally, PNA intends to strongly oppose any attempted intrusion into its internal websites. Security of proprietary business information is of the utmost importance, and granting such access to a government agency is not viewed as appropriate.

### **3. Reporting of Information**

PNA supports and reiterates the comments submitted by MEMA and OESA that requiring manufacturers to analyze the submitted information is outside the boundaries of TREAD.

PNA would prefer the option of reporting by either hard copy or by electronic means.

#### **4. The Raw Data And Allegation Materials Provided To NHTSA Under Early Warning Reporting Requires Data Protection Measures**

PNA is concerned about the intended use of the information that may be provided under the rules. The goal of TREAD does not require that the reported data and information find its way into the public record, indeed, the ANPRM acknowledges that it was Congress' intent that NHTSA receive the data in a timely manner, not the general public. NHTSA should establish procedures to ensure confidentiality of the data and compliance with federal privacy statutes. Leaks or release of this kind of material could severely and unjustifiably harm a manufacturer. As there is no mechanism for filtering specious claims, a manufacturer may needlessly suffer diminution of its public good will.